

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
BIG STONE GAP DIVISION

APR 17 2008

JOHN F. CORCORAN, CLERK
BY:  DEPUTY CLERK

TERRY THOMAS,)	
Plaintiff,)	Civil Action No. 2:07cv00047
)	
v.)	<u>ORDER</u>
)	
BOSTON MUTUAL LIFE)	
INSURANCE COMPANY,)	By: GLEN M. WILLIAMS
Defendant.)	SENIOR UNITED STATES DISTRICT JUDGE

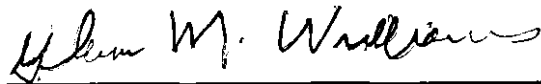
This case is before the court on cross motions for summary judgment regarding the plaintiff's challenge as to the final decision of Boston Mutual Life Insurance Company, ("Boston Mutual"), denying the plaintiff's claim for long-term disability insurance benefits, ("LTD"), under a group disability insurance policy issued to the employees of Pennington Gap HMA, Inc. d/b/a Lee Regional Medical Center. The case was referred pursuant to 28 U.S.C. § 636(b)(1)(B), to the Honorable Pamela Meade Sargent, United States Magistrate Judge. On March 24, 2008, the Magistrate Judge filed a report, (Docket Item No. 23), ("the Report"), recommending that the court deny the plaintiff's motion for summary judgment, grant Boston Mutual's motion for summary judgment and affirm Boston Mutual's decision to deny LTD benefits to the plaintiff as of December 21, 2004. The Magistrate Judge also recommended that the court deny the plaintiff's motion for award of attorney's fees and costs.

Objections to the Magistrate Judge's Report were timely filed by the plaintiff on April 8, 2008, (Docket Item No. 25). Among other things, the plaintiff argues that

Boston Mutual's decision to terminate benefits was based solely upon a functional capacity evaluation which was completed by a physical therapist. (Docket Item No. 25.) However, in examining the evidence, the court is of the opinion that, aside from the evaluation performed by the physical therapist, there is ample evidence to support Boston Mutual's decision to deny LTD benefits to the plaintiff as of December 21, 2004. Therefore, upon review of the objections to the Report, and all other relevant filings, the objections are hereby **OVERRULED** and the Magistrate Judge's Report shall be **ACCEPTED**.

For the reasons detailed in the Magistrate Judge's Report, the plaintiff's motion for summary judgment is hereby **DENIED**, Boston Mutual's motion for summary judgment is hereby **GRANTED** and Boston Mutual's decision to deny LTD benefits to the plaintiff as of December 21, 2004, is hereby **AFFIRMED**. The plaintiff's motion for award of attorney's fees and costs is hereby **DENIED**. The Clerk is directed to enter this Order and send certified copies to all counsel of record. The Clerk is further directed to strike this case from the docket.

ENTERED: This 17th day of April, 2008.

A handwritten signature in black ink, appearing to read "Glen M. Williams", is written over a horizontal line.

**THE HONORABLE GLEN M. WILLIAMS
SENIOR UNITED STATES DISTRICT JUDGE**